

REMARKS

Claims 9-12, 18-20, 29, and 35-44 are pending in this application. Claims 9, 20, 29, and 35 have been amended to more distinctly claim the invention. Applicant submits that no new matter has been added by this response.

Claims 9-12, 18-20, 35-40, and 42-44 were rejected under 35 U.S.C. § 102(b) as being anticipated by WCDMA (WCDMA for UMTS: Radio Access for Third Generation Mobile Communications (hereinafter as WCDMA)) in conjunction with 3GPP (3GPP TS 25.322 V4.4.0 (2002-03) (hereinafter as 3GPP)). Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over CarTALK (Communication Architecture Deliverable D6 (hereinafter as CarTALK)) in view of 3GPP, and further in view of US Publication 2003/0211846 by Nagpal et al. (hereinafter Nagpal). Claim 41 was rejected under 35 U.S.C. § 103(a) as being unpatentable over WCDMA in conjunction with 3GPP in view of AMR1 (3GPP TS 25.415 V3.7.0 (2001-06) (hereinafter ARM1)), and in further view of AMR2 (3GPP TS 26.071 V4.0.0 (2001-03) (hereinafter ARM2)).

Applicant respectfully traverses these rejections, and requests reconsideration and allowance of the pending claims in view of the following arguments.

Rejections under 35 U.S.C. § 102

Claims 9-12, 18-20, 35-40, and 42-44 were rejected under 35 U.S.C. § 102(b) as being anticipated by WCDMA in conjunction with 3GPP.

Independent claim 9 is directed to a method of processing data in a receiver apparatus used in a wireless communication system, the receiver apparatus comprising a medium access control (MAC) layer and a radio link control (RLC) layer for processing data units, and the method includes processing the data unit in accordance with either a first manner or a second manner, the selection of either the first manner or the second manner based upon at least an operation mode, wherein the second manner comprises checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured. Applicant respectfully submits that WCDMA in conjunction with 3GPP does not disclose the identified features of claim 9 and fails as an antedating reference for the following reasons.

On page 2 of the Office Action, the Examiner acknowledges that WCDMA fails to elaborate of the inherent characteristics of data unit processing in an RLC environment under TM. The Examiner relies on the 3GPP reference to present Applicant the inherent characteristics of which are not taught in the WCDMA.

WCDMA is directed to general concepts of radio interface protocols for universal mobile telecommunication system (UMTS). Specifically, WCDMA merely states that “erroneous PDUs can be discarded or marked erroneous in TM mode”, “received erroneous data is either marked or discarded depending on the configuration in UM mode”, and “in case that RLC is unable to deliver the data correctly the upper layer is

notified and the RLC SDU is discarded in AM mode” (See WCDMA pages 123 and 124, section 7.4.1.). However, WCDMA is unclear as to when such erroneous PDU is discarded and when and how it is “marked”. Additionally, the definition of “marked” is neither clear nor easily understood by those skilled in the art.

In contrast, amended claim 9 recites the limitation “wherein the second manner comprises checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.” Specifically, the second manner comprises either processing the data unit to the upper layer or discarding the data unit based upon a determination of whether or not a parameter indicating the delivery of the RLC data unit having the error has been configured.

WCDMA fails to teach or suggest any details as to specifically when and specifically how to implement the broad concepts of merely discarding or “marking” erroneous PDUs. Also, even if it is assumed that some details are taught, the method disclosed in WCDMA is not sufficient to anticipate the Applicant’s claimed invention. In clear contrast, Applicant’s claimed invention, as amended in claim 9, provides specific details as to when and how erroneous data units are to be handled by the RLC layer (entity).

For at least the reasons stated above, Applicant’s respectfully submit that independent claim 9 is patentable over the WCDMA reference.

“In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior

art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) MPEP 2112 (IV). "To serve as an anticipation when the reference is silent about the asserted inherent characteristic, such gap in the reference may be filled with recourse to extrinsic evidence. Such evidence must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." *Continental Can Co. USA v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991).

As submitted above, WCDMA teaching of "configuration" is not sufficient to anticipate the limitations of claim 9. The Examiner's reliance on 3GPP to teach or disclose the missing characteristic or functionality of WCDMA fails because, as explained above, even if the cited references are combined as suggested the invention of independent claim 9 would not be achieved with regard to "the second manner comprises checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured."

Applicant acknowledges that a reference may be submitted to establish inherency of a characteristic of a primary reference. But herein the WCDMA in conjunction with 3GPP fails to teach or suggest the "configuration" characteristic as disclosed in independent claim 9, with regards to discloses configuration of delivery of data units.

3GPP is directed to a Radio Link Control (RLC) protocol specification. Specifically, 3GPP teaches the "delivery of Erroneous SDUs" must be configured, then the data unit is processed based on the result, i.e., yes, no, no detect of the

configuration. In this regard, on page 3 of the Office Action, the Examiner also notes that “the receiver as taught on page 54 of 3GPP under section 11.1.3 is always configured to operate in one manner or another.”

However, amended independent claim 9 discloses checking a parameter indicating whether a delivery of the data unit having the error has been configured, then selectively processing, i.e., “processing” or “discarding”, the data unit based on the determination of whether the parameter indicating a delivery of the data unit having the error has been configured or not-configured. Therefore, 3GPP does not overcome the deficiencies of WCDMA because 3PGG still fails to teach or suggest “checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.”

On page 3 of the Office Action the Examiner additionally asserted that in regards to “configuration” the receiver can have a “Delivery of Erroneous SDUs” parameter set to “no”, and the actual delivery of data units is not configured.

Applicant respectfully disagrees with the Examiner’s assertion. In review of the 3GPP reference, even if “Delivery of Erroneous SDUs” is configured as “no”, “no” can be set only after the “delivery of Erroneous SDUs” is configured. The Examiner is directed to 3GPP section 10.4 which is a pre-requisite for section 11.1.3. As disclosed in 3GPP section 10.4, section 11.1.3 only performs when it is determined if “Delivery of Erroneous SDUs” is configured. Therefore, in contrast to the Examiner’s assertion, the “Delivery of erroneous SDUs” of 3GPP is always configured.

Applicant respectfully submits that 3GPP fails to teach checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.”

In contrast, the invention of independent claim 9 determines whether a delivery of the data unit having the error has been configured or not, then selectively processes the data unit or discards the data unit based on the configuration determination. Therefore, 3GPP also fails to teach or suggest the novel features of applicant’s claimed invention regarding “the second manner comprises checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.”

For the reason stated above, Applicant respectfully submits that independent claim 9 is allowable over WCDMA in conjunction with 3GPP.

Independent claim 20 recites limitations similar to those in independent claim 9 with regard to “wherein the second manner comprises checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.” Therefore, for reasons similar to the arguments with respect to independent claim 9, in regards to the above-cited limitations, Applicant submits that independent claim 20 is also allowable over WCDMA in conjunction with 3GPP.

Independent claim 35 recites limitations similar to independent claim 9 in regards to the configuration limitation. The method of independent claim 35 includes “wherein the first manner is performed when the RLC entity is in non-transparent mode, such that the RLC data unit is discarded,” and “wherein the second manner is performed when the RLC entity is in transparent mode, and comprises determining a parameter indicating whether a delivery of the RLC data unit having the CRC error has been configured, such that the RLC data unit is either further processed or discarded based on the determination.” Therefore, for reasons similar to the arguments with respect to independent claim 9, in regards to the “determining a parameter indicating whether a delivery of the RLC data unit having the CRC error has been configured, such that the RLC data unit is either further processed or discarded based on the determining step” limitations, Applicant submits that independent claim 35 is also allowable over WCDMA in conjunction with 3GPP.

Accordingly, dependent claims 10-12, 18, 19, 36-40, and 42-44 are believed to be allowable at least by virtue of their respective dependence from independent claims 9, 20, and 35.

Rejections under 35 U.S.C. § 103

Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over CarTALK in view of 3GPP, and further in view of Nagpal.

Independent claim 29 teaches a method of processing data in a receiver apparatus used in a wireless communication system, the receiver apparatus comprising a physical layer and a medium access control (MAC) layer for processing data units,

and the method includes “checking a parameter indicating whether a delivery of the data unit having the error has been configured if the header information is not present, and either processing the data unit when the parameter is configured or discarding the data unit when the parameter is not configured.”

The Examiner asserts on page 11 of the Office Action, that CarTALK teaches some of the limitations of claim 29, but fails to teach other limitations such as “examining the data unit for presence of header information associated with a MAC header”, “discarding the data unit if the header information is present” and “checking a parameter indicating whether a delivery of the data unit having the error has been configured if the header information is not present, and either delivering the data unit to an upper layer when the delivery of the data unit is configured or discarding the data unit when the delivery of the data unit is not configured,” as recited in independent claim 29.

However, the Examiner relies on 3GPP and Nagpal to cure the deficiencies of CarTALK. Applicant respectfully submits that the Examiner’s asserted page 55, section 10.4, line 4 of 3GPP fails to cure the deficiencies of CarTALK.

Applicant respectfully submits that the above-identified claim limitations are similar to the limitations of independent claim 9, that is with regard to “checking a parameter indicating whether a delivery of the data unit having the error has been configured and either processing the data unit if the parameter is configured or discarding the data unit if the parameter is not configured.” Therefore, for the reasons above with regard to independent claim 9 and because the cited combination of

references fails to cure the deficiencies of CarTALK, Applicant believes independent claim 29 is allowable over the cited combination of references.

Applicant submits that Nagpal fails to cure the previously identified deficiencies of CarTALK and 3GPP, therefore claim 29 is allowable over CarTALK in view of 3GPP and further in view of Nagpal. Even if one skilled in the art were to combine the references as asserted, claim 29 would still be allowable.

Claim 41 was rejected under 35 U.S.C. § 103(a) as being unpatentable over WCDMA in conjunction with 3GPP in view of AMR1 and in further view of AMR2. Applicant respectfully submits that AMR1 and AMR2 fail to cure the previously identified deficiencies of WCDMA & 3GPP with respect to “determining a parameter indicating whether a delivery of the RLC data unit having the CRC error has been configured, such that the RLC data unit is either further processed or discarded based on the determination,” as recited in independent claim 35. Therefore, independent claim 35 is allowable over the cited combination of references. Applicant respectfully submits that claim 41 is allowable at least by virtue of dependence from independent claim 35.

Conclusion

In view of the foregoing, it is respectfully submitted that the application and the claims are in condition for reconsideration on the merits, thus reexamination of the application is requested. The Examiner is invited to call the undersigned attorney at (213) 623-2221 should the Examiner believe a telephone interview would advance the prosecution of the application.

Respectfully submitted,

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